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Attorneys for Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION

In re:) Case No. 2:17-bk-13898-MCW
)
) Chapter 13
Claudia Pollock)
Michael Pollock,) OBJECTION TO CONFIRMATION OF
) CHAPTER 13 PLAN
Debtors.)
)
) Docket No. 16
)
)

Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc., ("Secured Creditor") in the above-entitled Bankruptcy proceeding, hereby submits the following Objections to Confirmation of the Chapter 13 Plan proposed by Claudia Pollock and Michael Pollock ("Debtors").

1. Secured Creditor is entitled to receive payments pursuant to a Promissory Note which matures on 3/1/2056 and is secured by a Deed of Trust on the subject property commonly known as 2534 W Cavalry Dr, Phoenix, AZ 85086-6614 ("Property"). As of 11/22/2017, the total amount owing on the obligation was \$360,811.22 and the amount in default was approximately \$18,684.65. A Proof of Claim detailing the arrearages is forthcoming and will be filed on or before the claims bar date 4/03/2018; however, Secured Creditor submits the following objections to timely preserve its rights and treatment under the proposed Plan.

2. The proposed Plan does not provide for pre-petition arrearages owed to Secured Creditor. To cure the pre-petition arrearages of \$18,684.65 over the term of the Plan within 60 months, Secured Creditor must receive a minimum payment of \$311.41 per month from the Debtors through the Plan. Although Debtors do not provide for payments to Secured Creditor, Debtors' Plan provides for payments to the Trustee in the amount of \$536.00 per month for 60 months. It appears Debtor has sufficient funds to provide for the full arrearages of Secured Creditor and thus the Plan should be amended accordingly.

3. Secured Creditor objects to being bound to the Plan with regard to the amount of post-petition payments. Secured Creditor holds the Promissory Note and asserts that all post-petition payment amounts should be dictated by the terms of the Note. Also, Debtors' Plan provides for a post-petition payment in the amount of \$1,827.00 to Secured Creditor. The current contractual payment is \$1,852.07.

4. Unless otherwise ordered, under 11 U.S.C. § 1326(a)(1), the Debtors shall commence making the payments proposed by the Plan within 30 days after the Petition is filed. The Plan must comply with all applicable provisions of 11 U.S.C. § 1325 to be confirmed. As such, the Plan cannot be confirmed.

CONCLUSION

Any Chapter 13 Plan proposed by the Debtors must provide for and eliminate the Objections specified above in order to be reasonable and to comply with applicable provisions of the Bankruptcy Code. Secured Creditor respectfully requests that confirmation of the Chapter 13 Plan as proposed by the Debtors be denied, or in the alternative, be amended to provide for full payoff of the arrearages owed to Secured Creditor and to remedy all other objections stated herein.

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1 **WHEREFORE**, Secured Creditor prays as follows:

2 1. That confirmation of the Proposed Chapter 13 Plan be denied, or in the
3 alternative, be amended to provide for full payoff of the arrearages owed to Secured Creditor and
4 to remedy all other objections stated herein;

5 2. For attorneys' fees and costs herein,

6 3. For such other relief as this Court deems proper.

7
8 Respectfully submitted,

9 **McCARTHY & HOLTHUS, LLP**

10 2/2/2018

11 By: /s/ Lakshmi Jagannath
12 Lakshmi Jagannath, Esq.
13 *Attorney for Secured Creditor*

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In re:) Case No. 2:17-bk-13898-MCW
)
) Chapter 13
)
Claudia Pollock and Michael Pollock,)
) **PROOF OF SERVICE**
)
)
Debtors.)
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On 2/5/2018, I served the document described as **OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN** on the following individuals by electronic means through the Court's ECF program:

DEBTORS' COUNSEL
Nathan A Finch
nathan@catalyst.lawyer

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Salvador Arroyo

Salvador Arroyo

File No. AZ-17-142109
Re: 2534 W Cavalry Dr

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Case No. 2:17-bk-13898-MCW
Proof of Service

1 On 2/5/2018, I served the document described as **OBJECTION TO**
2 **CONFIRMATION OF CHAPTER 13 PLAN** on the following individuals by depositing true
3 copies thereof in the United States mail at San Diego, California, enclosed in a sealed envelope,
4 with postage paid, addressed as follows:

5 **DEBTORS**

6 Claudia Pollock, 2534 W Cavalry Drive, Phoenix, AZ 85086

7 Michael Pollock, 2534 W Cavalry Drive, Phoenix, AZ 85086

8 **DEBTORS' COUNSEL**

9 Nathan A Finch, Catalyst Legal Group PLLC, 1820 E Ray Rd, Chandler, AZ 85225

10 **TRUSTEE**

11 Russell Brown, Chapter 13 Trustee, Suite 800, 3838 North Central Avenue, Phoenix, AZ 85012

12 **U.S. TRUSTEE**

13 230 North First Avenue, Suite 204, Phoenix, AZ 85003-1706

14 **I declare under penalty of perjury under the laws of the United States of America that the foregoing**
15 **is true and correct.**

16 /s/ Hue Banh

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